

Message Text

UNCLASSIFIED

PAGE 01 STATE 011790

47

ORIGIN EB-03

INFO OCT-01 ISO-00 /004 R

66011

DRAFTED BY:EB/OT/TA:RAMEYER

APPROVED BY:EB/OT/TA:WGBARRACLOUGH

----- 045919

R 200505Z FEB 76

FM SECSTATE WASHDC

TO AMCONSUL HONG KONG

UNCLAS STATE 011790

FOLLOWING SECSTATE 11790 SENT ACTION MTN GENEVA INFO EC
BRUSSELS PARIS JAN 16; REPEATED TO YOU QUOTE

UNCLAS STATE 011790

E.O. 11652:

TAGS:

SUBJECT: SUPREME COURT DECISION ON PROPERTY TAXES
FROM STR

1. SUMMARY. SUPREME COURT HELD JANUARY 14, 1976 IN
MICHELIN TIRE CORP. V. WAGES, TAX COMMISSIONER, THAT
GEORGIA COULD IMPOSE A NONDISCRIMINATORY PROPERTY TAX ON
IMPORTED GOODS HELD IN WAREHOUSE FOR DISTRIBUTION. THERE
HAS BEEN EUROPEAN PRESS INQUIRY AND SOME INDICATION OF
ADVERSE REACTION. MTN DEL SHOULD STATE IF ASKED THAT THE
COURT DECISION DOES NOT DISADVANTAGE IMPORTS AND IS
COMPLETELY CONSISTENT WITH GATT NATIONAL TREATMENT RULES.
END SUMMARY.

2. A COUNTY IN GEORGIA ASSESSED AD VALOREM PROPERTY
TAXES AGAINST TIRES IN MICHELIN INVENTORY MAINTAINED AT A
WHOLESALE DISTRIBUTION WAREHOUSE IN THAT COUNTY.

THE QUESTION PRESENTED TO THE COURT WAS WHETHER THIS
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 011790

TAX ASSESSMENT WAS IMPOSED CONTRARY TO THE CONSTITUTIONAL

PROHIBITION THAT QUOTE NO STATE SHALL, WITHOUT THE CONSENT OF CONGRESS, LAY ANY IMPOSTS OR DUTIES ON IMPORTS OR EXPORTS, EXCEPT WHAT MAY BE ABSOLUTELY NECESSARY FOR EXECUTING ITS INSPECTION LAWS. . . END QUOTE. THE WAREHOUSE IN QUESTION SERVICES 300 DEALERS IN SIX STATES.

TWENTY-FIVE PERCENT OF THE TIRES CAME OVER LAND FROM CANADA AND THE REMAINDER BY OCEAN CONTAINER FROM FRANCE AND CANADA. AT THE WAREHOUSE THEY ARE SORTED BY SIZE AND STACKED IN INVENTORY FOR DISTRIBUTION.

3. THE COURT HELD THAT THE TIRES WERE NO LONGER IN TRANSIT. THEY WERE STORED IN A DISTRIBUTION WAREHOUSE FROM WHICH MICHELIN OPERATED A WHOLESALE OPERATION, TAKING ORDERS FROM FRANCHISED DEALERS AND FILLING THEM FROM A CONSTANTLY REPLENISHED INVENTORY. THE WAREHOUSE WAS OPERATED NO DIFFERENTLY THAN WOULD BE A DISTRIBUTION WAREHOUSE UTILIZED BY A WHOLESALER DEALING SOLELY IN DOMESTIC GOODS, AND THE COURT THEREFORE HELD THAT THE NONDISCRIMINATORY PROPERTY TAX LEVIED ON MICHELIN'S INVENTORY OF IMPORTED TIRES WAS NOT PROHIBITED BY THE IMPORT-EXPORT CLAUSE OF THE CONSTITUTION.

4. ABOVE IS STR SUPPLEMENT TO PRIOR CABLE THIS SUBJECT.
KISSINGER UNQUOTE INGERSOLL

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CUSTOMS DUTIES, IMPORTS, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 20 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE011790
Document Source: CORE
Document Unique ID: 00
Drafter: EB/OT/TA:RAMEYER
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760064-0402
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760229/aaaaazfx.tel
Line Count: 86
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ullricre
Review Comment: n/a
Review Content Flags:
Review Date: 23 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <23 JUL 2004 by oatisao>; APPROVED <30 AUG 2004 by ullricre>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SUPREME COURT DECISION ON PROPERTY TAXES FROM STR
TAGS: EFIN, ETRD, HK, US, MICHELIN TIRE CORP
To: HONG KONG
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006